

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO: 0:22-CV-61553-WPD

CRUZ VALDIVIESO FIGUERA,

Plaintiff,

vs.

ALL VIP CARE, INC., &
LIZ VELAZQUEZ McKINNON,

Defendants.

**DEFENDANTS' AMENDED ANSWER, AFFIRMATIVE DEFENSES TO THE
PLAINTIFF'S SECOND AMENDED COMPLAINT & COUNTER-COMPLAINT
AGAINST PLAINTIFF**

The Defendants in accordance with the Court's Order of January 25, 2023, granting the Defendants' Motion for Leave to Amend [DE-36], and the Fed. R. Civ. P. et al., file their Amended Answer, Affirmative Defenses and Counter-Complaint Against the Plaintiff and in support thereof states:

ANSWER

General Responses

1. Any averment, allegation, or prayer for relief that is not specially admitted to is hereby denied in its entirety.
2. Any reference to any statute, case law, or document, is acknowledged to the point that such statute, case law, or document speaks for itself. However, the Defendants deny any liability or action that maybe inferred to be inconsistent with such statute, case law, or document, unless specifically admitted to in the Specific Responses set forth below.
3. The Specific Responses are in numbered paragraphs that coincide with the numbered paragraphs of the Complaint.

Specific Responses

1. Defendants are without sufficient knowledge to either admit or deny this averment, as such this averment is denied.
2. Admitted.
3. Admitted.
4. Admitted for jurisdictional purposes only. The Defendants deny any liability to the Plaintiff.
5. Admitted for jurisdictional purposes only. The Defendants deny any liability to the Plaintiff.
6. Denied.
7. Defendants are without sufficient knowledge to either admit or deny this averment, as such this averment is denied.

Count I: FLSA Minimum Wage

The Defendants restate and reaffirm their previous responses to averments 1 through and including 7, as if fully restated herein.

8. Admitted.
9. Denied.
10. Denied.
11. Denied.
12. Denied.
13. Denied.
14. Denied.
15. Denied.

16. Denied.

17. Defendants are without sufficient knowledge to either admit or deny this averment, as such this averment is denied.

18. Denied.

19. Denied.

20. Denied.

21. Admitted.

22. Denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

Count II: FLSA Overtime Wage

The Defendants restate and reaffirm their previous responses to averments 1 through and including 7, as if fully restated herein.

30. Denied.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

Count III: Breach of Contract (All VIP Care)

The Defendants restate and reaffirm their previous responses to averments 1 through and including 7, as if fully restated herein.

38. Denied.

39. Admitted.

40. Denied.

41. Denied.

42. Denied.

Count IV: Unjust Enrichment (All VIP Care)

The Defendants restate and reaffirm their previous responses to averments 1 through and including 7, as if fully restated herein.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

47. Denied.

Count V: Retaliation FLSA (all Defendants)

The Defendants restate and reaffirm their previous responses to averments 1 through and including 7, as if fully restated herein.

48. Denied.

- 49. Admitted.
- 50. Admitted.
- 51. Admitted.
- 52. Admitted.
- 53. Admitted.
- 54. Admitted.
- 55. Denied.
- 56. Denied.
- 57. Denied.
- 58. Denied.
- 59. Admitted.
- 60. Denied.
- 61. Denied.
- 62. Denied.
- 63. Denied.
- 64. Denied.
- 65. Denied.

AFFIRMATIVE DEFENSES

1st Affirmative Defense: Plaintiff does not have standing and fails to state a viable Fair Labor Standards Act (“FLSA”) claim for minimum wage or overtime because Plaintiff was an independent contractor in accordance with Florida Law, specifically Fla. Stat. Chap. 400, et al. The Plaintiff acknowledged her independent contractor status in her agreement and on-boarding documents with Defendant All VIP. As such, the Plaintiff cannot set forth claims under the FLSA.

The FLSA does not cover or is applied to Independent Contractors. *Scantland v. Jeffry Knight, Inc.*, 721 F.3d 1308, 1311 (11th Cir. 2013) (The protections of the FLSA extend only to "employees."). The Plaintiff is not and cannot be an employee of the Defendants¹ – the Plaintiff is an Independent Contractor.² F.A.C. 59A-18.002(7) defines an “Independent Contractor” as “a person who contracts through a referral from a Nurse Registry [i.e Defendant All VIP Care]. The independent contractor maintains control over the method and means of delivering the services provided, and is responsible for the performance of such services. An Independent Contractor is not an employee of the nurse registry.” *Id.*

Accordingly, the Plaintiff is not entitled to minimum wage or overtime compensation under the FLSA. There are two (2) primary arguments that clearly support that the Plaintiff is an Independent Contractor and not an employee of the Defendants.

First, Florida law clearly mandates that the Plaintiff is an Independent Contractor based on who she is, the services that she provides, and her relationship with the Defendants and the patient. *Id.* The Defendants would clearly be violating Florida law if the Plaintiff was treated as anything other than an Independent Contractor.

Under Fla. Stat. §400.462(21) a “Nurse Registry” is defined as, “any person that procures, offers, promises, or attempts to secure health-care-related contracts for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, companions, or homemakers, who are compensated by fees as Independent Contractors, including, but not limited to, contracts for the provision of services to patients and contracts to provide private duty or staffing services to health care facilities licensed under chapter 395, this chapter, or chapter 429 or other business entities.” *Id.* (Emphasis Added.)

¹ Fla. Stat. §400.506(6)(d).

As a Nurse Registry, Defendant VIP is clearly and expressly forbidden by Fla. Stat. §400.506(6)(d) from having their Caregivers, which includes Home Health Aides (“HHA”) like the Plaintiff as employees.

As such, the FLSA Claims against the Defendants fail as the Plaintiff is not an employee of the Defendants, but is an independent contractor.

2d Affirmative Defense: When the “Economic Realities Test,” which has been adopted by the 11th Circuit³ for analysis of whether a Plaintiff is an employee or Independent Contractor under the FLSA is applied to the undisputable facts of this case, this Court will find that the Plaintiff is an Independent Contractor and not an employee.

The protections of the FLSA extend only to "employees." *Scantland v. Jeffry Knight, Inc.*, 721 F.3d 1308, 1311 (11th Cir. 2013). An "employee" is "any individual employed by an employer."⁴ An "employer" is "any person acting directly or indirectly in the interest of an employer in relation to any employee."⁵ The FLSA does not cover "Independent Contractors." *Id.* To determine whether a person is an employee or independent contractor for purposes of the FLSA, courts in the 11th Circuit look to the "Economic Realities" of the relationship between the alleged employee and employer and whether that relationship demonstrates dependence. *Id.*

The Economic Realities inquiry is not governed by the "label" put on the relationship by the parties or the contract that controls their relationship. *Id.* Merely putting an "independent contractor" label on the alleged employee does not take him from the protections of the FLSA. *Id.* However, the written agreement between the parties is clearly probative of the parties' intent of their relationship and is a relevant factor for consideration by the court. *See Daughtrey, v.*

² *Supra* fn. 3.

³ *Scantland v. Jeffry Knight, Inc.*, 721 F.3d 1308, 1311 (11th Cir. 2013).

⁴ 29 U.S.C. § 203(e)(1).

Honeywell, Inc., 3 F.3d 1488, 1492, (11th Cir.1993) (finding the parties' intent probative, but not decisive). *Ashkenazi v. S. Broward Hosp. Dist.* No. 13-15061 (11th Cir. April 23, 2015)(D.C. Docket No. 0:11-cv-61403-JIC.)

Here, there is no label being attached to the Plaintiff, the Plaintiff's status as an independent contractor is a statutory mandate from the State of Florida that the relationship between the Plaintiff and the Defendants is that of an independent contractor and not an employee.

When the facts of this case are applied to the factors and that guide the Economic Realities Test, the fact that the Plaintiff is an independent contractor are clearly and unequivocally reinforced. The elements for the Economic Realities Test as set forth in *Scantland v. Jeffry Knight, Inc.*, 721 F.3d 1308, 1311 (11th Cir. 2013), are: "(1) the nature and degree of the alleged employer's control as to the manner in which the work is to be performed; (2) the alleged employee's opportunity for profit or loss depending upon his managerial skill; (3) the alleged employee's investment in equipment or materials required for his task, or his employment of workers; (4) whether the service rendered requires a special skill; (5) the degree of permanency and duration of the working relationship; [and] (6) the extent to which the service rendered is an integral part of the alleged employer's business." *Id.* at 1311-12. While these factors are important, the overarching focus of the inquiry is economic dependence, or in other words, whether the individual is "in business for himself" or is "dependent upon finding employment in the business of others." *Id.* at 1312; *Freund v. Hi-Tech Satellite, Inc.*, 185 Fed. Appx. 782, 782 (11th Cir. 2006). These factors are used because they are "indicators of economic dependence [T]he weight of each factor depends on the light it sheds on the [alleged employee's] dependence (or lack thereof) on the alleged employer, which in turn depends on the facts of the case." *Antenor v. D&S Farms*, 88 F.3d 925, 931-32 (citing *Aimable*, 20 F.3d at 439-

⁵ 29 U.S.C. § 203 (d)

40), as cited in *Batten v. Barfield*, Case No: 5:18-cv-483-OC-PRL, Middle District of Florida (Nov. 26, 2019).

As such, the FLSA Claims against the Defendants fail as the Plaintiff is not an employee of the Defendants but is an independent contractor.

3d Affirmative Defense: The Plaintiff's claims for breach of contract fail as the Plaintiff materially breached her agreement with the Defendant VIP prior to any alleged breach by the Defendant VIP by absconding client(s) from Defendant VIP and engaged in an outside business relationship with the client(s) which are in violation of the Plaintiff's contractual relationship with the Defendant VIP.

COUNTER-COMPLAINT

The Defendant VIP ("VIP") files this Counter-Complaint against the Plaintiff ("Figuera") and in support thereof states:

1. Subject matter and personal jurisdiction have already been established by Figuera in the Second Amended Complaint and its previous versions of the Complaints.
2. Figuera entered into an independent contractor relationship with VIP on or about May 3, 2021.
3. As a condition precedent to Figuera's business relationship with VIP, Figuera completed and executed an: (i) Application for Contract or Employment with the Registry; (ii) Acknowledgement of Nurse registry Policy and Procedures; and (iii) Independent Contractor Agreement; (collectively referred to as the "Agreement") which are attached hereto as composite **Exhibit A.**

4. Figuera was engaged to provide services as a “Home Health Aide,” as defined and designated in Fla. Stat. §400.462(15)⁶

5. VIP is a Florida licensed and registered Nurse Registry.⁷

6. Figuera terminated Figuera’s relationship with VIP on or about July 25, 2022.

7. Prior to the Figuera’s terminating Figuera’s relationship with VIP, VIP learned that Figuera had entered into a direct relationship with at least one (1) of VIP’s clients circumvent VIP’s relationship with the client(s).

8. Such action by Figuera is a direct material breach of Figuera’s expressly agreed to Agreement. (**Exhibit A.**)

9. Immediately upon Figuera’s termination, Figuera solicited a client of VIP to end their relationship with VIP and to follow Figuera to Figuera’s new employment relationship.

10. The restrictive covenants at issue in this case are set forth in the Agreement (**Exhibit A.**) These restrictive covenants include but are not limited to:

A. Keep confidential all of VIP’s patient information and VIP’s proprietary information, during and after the relationship between Figuera and VIP ends. This restrictive covenant is in perpetuity.

⁶ “Home Health Aide” means a person who is trained or qualified, as provided by rule, and who provides hands-on personal care, performs simple procedures as an extension of therapy or nursing services, assists in ambulation or exercises, or assists in administering medications as permitted in rule and for which the person has received training established by the agency under s. 400.497(1).

⁷ Under Fla. Stat. §400.462(21) a “Nurse Registry” is defined as, “any person that procures, offers, promises, or attempts to secure health-care-related contracts for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, companions, or homemakers, who are compensated by fees as Independent Contractors, including, but not limited to, contracts for the provision of services to patients and contracts to provide private duty or staffing services to health care facilities licensed under chapter 395, this chapter, or chapter 429 or other business entities.” *Id.*

B. During the contractual relationship and for a period of one (1) year from the end of the relationship:

1. Figuera will not directly or indirectly contact a VIP client/patient for purposes of being employed by, participate in, consult with, perform services for, or otherwise be connected with any business the same as or similar to the business conducted by the nurse registry (i.e. VIP).

2. Figuera agrees that if Figuera is contacted by a client who attempts to arrange services directly with Figuera, that Figuera would notify VIP of this event.

3. Figuera will not accept any assignment from a VIP client for one (1) year from the termination date of the relationship between Figuera and VIP.

11. The Agreement defines VIP's Business as a Nurse Registry, as further defined herein and in Fla. Stat. §400.462(29).

12. VIP's legitimate business interests include but are not limited to: VIP's confidential information, client information, proprietary information, along with other operational policies and procedures.

13. Figuera acknowledged and agreed that VIP shall have a right to immediate injunctive relief without the need for the posting of a bond, along with other legal and equitable remedies available in the event of a breach of the Agreement.

14. Each of the restrictive covenants contained in the Agreement are reasonable and necessary to protect VIP's legitimate business interests, including but not limited to the VIP's: confidential information, patient lists and information, substantial relationships with existing patients, clients and customers, patient referral sources, specialized training, financial position and worthiness, business practices, marketing strategies, treatment procedures and protocols.

15. If a local competitor to the VIP's business were to find out the VIP's: confidential information, patient lists and information, substantial relationships with existing patients and customers, patient referral sources, specialized training, financial position and worthiness, business practices, marketing strategies, treatment procedures and protocols, VIP would be placed at a severe competitive disadvantage.

16. Figuera was given access to, knew, and knows VIP's: confidential information, patient lists and proprietary information, substantial relationships with existing patients, clients and customers, patient referral sources, and worthiness, business practices, marketing strategies, treatment procedures and protocols. It is inevitable that as long as Figuera is acting in violation of Figuera's contractual obligations set forth in the Agreement Figuera is placing VIP at a severe competitive disadvantage and is causing significant damages to VIP.

17. Due to Figuera's conduct, VIP has retained the services of undersigned counsel to represent their interests in this action. VIP is entitled to an award of attorney's fees pursuant to §542.335 Florida Statutes and §688.005 Florida Statutes.

COUNT I – BREACH OF CONTRACT

18. VIP incorporates by reference averments 1 through and including 17, herein with the same full force and effect as if they were re-pled in their entirety.

19. Figuera, as a condition of establishing an independent contractor relationship with VIP willfully entered into the Agreement with VIP, which expressly contained certain restrictive covenants. (**Exhibit A**)

20. In exchange for agreeing to the Agreement and the restrictions contained therein, Figuera was and continued to be a contractor for VIP.

21. The restrictive covenants are necessary, reasonable, and supported by adequate consideration to protect the legitimate business interests of VIP.

22. Figuera materially breached the restrictive covenants in the Agreement by:

A. Engaging in a direct or indirect relationship with a client of VIP for either Figuera's own benefit or the benefit of another, or otherwise, including but not limited to directly or indirectly being employed by, participate in, consult with, perform services for, or otherwise be connected with any business the same as or similar to the business conducted by VIP;

B. If the client initiated the communication with Figuera, for directly or indirectly for purposes of being employed by, participate in, consult with, perform services for, or otherwise be connected with any business the same as or similar to the business conducted by the nurse registry, Figuera failed to report this to VIP;

C. Soliciting VIP's patient(s) directly or indirectly for the purposes of being employed by, participate in, consult with, perform services for, or otherwise be connected with any business the same as or similar to the business conducted by VIP;

D. Divulging VIP's confidential information, trade secrets and other proprietary information to VIP's client(s) and/or other third parties; and/or

E. Using VIP's confidential information, trade secrets and other proprietary information for the personal benefit of Figuera.

23. VIP has suffered and will continue to suffer irreparable injury, harm, and damages because of Figuera's material breach of the Agreement including but not limited to:

A. Use and or disclosure of patient information, financial information, and other confidential and proprietary information, and/or trades secrets that is the property of VIP;

B. Present economic loss, which is unascertainable at this time, and future economic loss, which is incalculable; and

C. Loss of patient/customer goodwill, damage to patient/client relationships, loss of market position and reputation in the industry, and damage to its valuable competitive advantage – all of which cannot be compensated by an award of damages.

24. The balance of equities weighs in favor of VIP because the injuries and threatened injuries to VIP outweigh any harm an injunction poses to Figuera.

25. As a result of the irreparable injury and harm detailed above, VIP has no adequate remedy at law.

26. The public having a vested interest in ensuring the sanctity of contracts, entering the requested injunction will serve the public interest.

27. VIP has a substantial likelihood of prevailing on the merits of this cause of action at trial.

28. As a result of Figuera's wrongful conduct, the Plaintiff has suffered and will suffer certain calculable damages in an amount to be determined at trial.

WHEREFORE VIP requests that this Court enter judgment against Figuera as follows:

A. Temporarily and permanently enjoining Figuera, and all those who act in active concert or participation with Figuera in violation of Figuera's Agreement, from the following: (i) Directly or indirectly competing with VIP; (ii) Using or disclosing the VIP's confidential and proprietary information, including but not limited to: confidential information, patient lists and information, substantial relationships with existing patients and customers, patient referral sources, financial position and worthiness, business practices, marketing strategies, treatment procedures and protocols.

- B. Directly or indirectly soliciting patients of the VIP;
- C. Requiring Figuera to return all documents or materials containing VIP's: confidential information, patient lists and information, substantial relationships with existing patients and customers, patient referral sources, specialized training, financial position and worthiness, business practices, marketing strategies, treatment procedures and protocols.
- D. That the restrictive period of one (1) year be restarted from the date of the entry of the Final Judgment.⁸
- E. Awarding the Plaintiff damages in an amount to be determined at trial.
- F. Granting such other relief as this Court deems just and proper under the circumstances.

Count II: Promissory Estoppel

29. VIP incorporates by reference averments 1 through and including 17, herein with the same full force and effect as if they were re-pled in their entirety.

30. Figuera and VIP entered into a written Agreement (**Exhibit A**) wherein Figuera, as a condition of his business relationship with VIP and the continued business relationship Figuera agreed and promised to abide by certain restrictive covenants.

31. If Figuera did not make these promises to abide by the restrictive covenants set forth in the Agreement, Figuera would not have been afforded the opportunity to enter into a business relationship with VIP.

⁸ The Florida Courts have well established that upon entry of the injunction, the trial court shall provide the Plaintiff with the benefit of its full non-compete period. See *Anakarli Boutique, Inc. v. Ortiz*, 152 So. 3d 107, 109 (Fla. 4th DCA 2014) (citing to *Kverne v. Rollins Protective Servs. Co.*, 515 So. 2d 1320, 1321-22 (Fla. 3d DCA 1987). *Quirch Foods LLC v. Broce*, 314 So.3d 327 (Fla. App. 2020).

32. In reliance of the Figuera's promises, VIP entered into an Independent Contractor relationship with Figuera.

33. Figuera materially breached Figuera's promises that were set forth in the Agreement (**Exhibit A**) by not performing in accordance with the Figuera's Promise, in part by:

A. Engaging in a direct or indirect relationship with a client of VIP for either Figuera's own benefit or the benefit of another, or otherwise, including but not limited to directly or indirectly being employed by, participate in, consult with, perform services for, or otherwise be connected with any business the same as or similar to the business conducted by VIP;

B. If the client initiated the communication with Figuera, for directly or indirectly for purposes of being employed by, participate in, consult with, perform services for, or otherwise be connected with any business the same as or similar to the business conducted by the nurse registry, Figuera failed to report this to VIP;

C. Soliciting VIP's patient(s) directly or indirectly for the purposes of being employed by, participate in, consult with, perform services for, or otherwise be connected with any business the same as or similar to the business conducted by VIP;

D. Divulging VIP's confidential information, trade secrets and other proprietary information to VIP's client(s) and/or other third parties; and/or

E. Using VIP's confidential information, trade secrets and other proprietary information for the personal benefit of Figuera.

34. Figuera reasonably expected to induce action or forbearance on the part of the VIP, by making the promises set forth in the Agreement (**Exhibit A**) to VIP.

35. VIP materially relied on Figuera's promises to VIP.

36. As a result of the breached promises of Figuera, VIP has been significantly harmed and continues to be harmed, in an amount to be determined by the Court.

37. Injustice can only be avoided by the Court requiring Figuera to immediately cease Figuera's actions that are in violation of Figuera's promises and to abide by the promises delineated in the Agreement (**Exhibit A**) and to compensate VIP for their general and special damages incurred because of their reliance on Figuera's promises.

WHEREFORE, VIP respectfully requests that judgment be entered in favor of the VIP against Figuera for promissory estoppel and the Court require Figuera to immediately cease Figuera's actions that are in violation of Figuera's promises and to abide by the promises delineated in the Agreement (**Exhibit A**) and to compensate VIP for their general and special damages incurred because of their reliance on Figuera's promises along with an award of damages in an amount to be determined by the Court; together with such other relief this Court deems just and proper.

Count III: Violation of Florida's Trade Secrets Act

38. VIP incorporates by reference averments 1 through and including 17, herein with the same full force and effect as if they were re-pled in their entirety.

39. This count of the Complaint is filed in accordance with Florida Trade Secrets Act, Fla. Stat. Chap. 688.

40. Figuera meets the statutory definition of "Person" set forth in Fla. Stat. §688.02(3).

41. Fla. Stat. §688.02(4) defines Trade Secret as, "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process that:
(a) Derives independent economic value, actual or potential, from not being generally known to,

and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

42. Pursuant to the statutory definition of Trade Secrets” includes but is not limited to the Plaintiff’s: confidential information, patient lists and information, substantial relationships with existing patients and customers, patient referral sources, specialized training, financial position and worthiness, business practices, marketing strategies, treatment procedures and protocols.

43. Figuera, as an independent contractor of VIP engaged in the misappropriation of trade secrets belonging to VIP.

44. Figuera knowingly or had reason to know that she acquired trade secrets of VIP due to Figuera’s access to this information as a contractor of VIP.

45. Figuera knew or should have known that Figuera improperly acquired VIP’s trade secrets.

46. VIP never consented or approved Figuera to copy, remove, obtain, or disclose the VIP’s trade secrets for Figuera’s personal use, or to share this information with another or to use for Figuera’s own use.

47. Figuera pursuant in part due the Agreement (**Exhibit A**) that Figuera entered into with VIP, had a contractual duty to maintain the secrecy of VIP’s trade secrets and/or to limit its use for the benefit of VIP.

48. Figuera experienced a material change of Figuera’s relationship with VIP when Figuera terminated Figuera’s the Agreement and relationship with VIP on or about July 25, 2022.

49. Notwithstanding Figuera's material change in her relationship with VIP, Figuera knew or had reason to know that Figuera had a continuing duty to maintain the trade secrets of the Plaintiff as confidential pursuant to Agreement (**Exhibit A.**)

50. In accordance with Fla. Stat. §688.03, VIP is entitled to Injunctive relief, against Figuera.

51. In accordance with Fla. Stat. § 688.004, due to actions of Figuera, wherein that Figuera willfully and maliciously misappropriated trade secrets of VIP, VIP is entitled up to twice the amount of the damage award.

52. Fla. Stat. §688.005, VIP is entitled to recover their reimbursement of their reasonable attorney's fees and costs associated with this count.

WHEREFORE, VIP respectfully requests that judgment be entered in favor of VIP against Figuera which includes injunctive relief, exemplary damages in an amount to be determined by the Court per statute; award VIP their reasonable attorney's fees and costs, per statute; together with such other relief this Court deems just and proper.

Count IV: Tortious Interference With Contractual Relationship

53. VIP incorporates by reference averments 1 through and including 17, herein with the same full force and effect as if they were re-pled in their entirety.

54. To be actionable, tortious interference requires: (i) the existence of a business relationship; (ii) knowledge of the relationship on the part of the defendant; (iii) an intentional and unjustified interference with the relationship by the defendant; and (iv) damages to the plaintiff as a result of the breach of the relationship *Fiberglass Coatings, Inc. v. Interstate Chem., Inc.*, 16 So.3d 836, 838 (Fla. 2d DCA 2009).

55. By way of the existence of contractual agreements between VIP, a Nurse Registry, and their clients/patients and VIP, a contractually based business relationship existed between VIP and such clients/patients.

56. This contractual relationship was known to Figuera.

57. Figuera intentionally and unjustifiably interfered with the contractual relationship between VIP and their clients/patients.

58. As a result of the actions of Figuera, VIP suffered damages.

WHEREFORE, VIP respectfully requests that judgment be entered in favor of VIP against Figuera for tortious interference in an amount to be determined by the Court; together with such other relief this Court deems just and proper.

CERTIFICATIONS

I hereby certify that a copy of this pleading which was filed with the Clerk of the Court and was provided to: **Brian Howard Pollock, Esquire**, Fairlaw Firm, 135 San Lorenzo, Avenue, Suite 770, Coral Gables, FL 33146, Brian@fairlawattorney.com; **Toussaint Marcus Cummings, Esquire**, Quintairos, Prieto, Wood, and Boyer, 9300 South Dadeland Blvd, 4th Floor, Miami, FL 33156, toussaint@fairlawattorney.com; and all attorneys listed on and via the ECM System on **January 28, 2023**.

Refiled in accordance with Court' Order with redacted Exhibit A [DE-48] on **June 17, 2023**.

/s/ RANDY M. GOLDBERG, ESQUIRE

Florida Healthcare Law Firm

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CASE NO: 0:22-CV-61553-WPD

EXHIBIT A



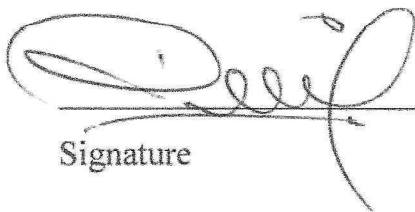
Dear Independent Contractor:

Your application for work/assignment is a legal document.

Therefore, falsifying documents is a criminal offense and is considered to be a white-collar crime. This involves altering, changing, modifying, passing or possessing documents for an unlawful purpose. Including putting false information on your application.

This WILL result in immediate termination from All VIP Care, Inc. roster and your certificate/license will be reported to the state/Palm Beach County.

By signing below, you are stating your application is truthful to the best of your knowledge.



Signature

5-3-21

Date

APPLICATION FOR CONTRACT OR EMPLOYMENT WITH THE REGISTRY

Section 1: Contact Information

Last: <u>Valdivieso</u>	First: <u>CRUZ</u>	MI:
Address: <u>6401 PERRY ST Hollywood</u>		
City: <u>Hollywood</u>	State:	Zip: <u>33024</u>
Home Phone:	Cell Phone: <u>786 902 6357</u>	
Email Address: <u>Deyce L. Valdivieso @Gmail.com</u>		
Date of Birth: [REDACTED]	Social Security Number: [REDACTED]	

Section 2: Desired Employment or Contract

Position: <u>CHHA</u>	Date Available to Start: <u>IMMEDIATE</u>
Are you currently employed? <u>Y</u> <u>N</u>	
If employed, may we contact your current employer(s)? <u>Y</u> <u>N</u>	
Have you applied to our nurse registry before? <u>Y</u> <u>N</u>	
If so, when? _____	

Section 3: Education

Type of School	Name	Address/Location	Years Attended	Date Graduated	Diploma/Degree
High School	<u>Alarico Guiz VENEZUELA</u>				
College					
Graduate School					
Trade, Business, or Specialty School					

Section 4: Employment/Contractual History (list in chronological order with last or present employer first)

Employer: <u>SUSA VENEZUELA</u>		Job title:	
Address:			
Phone: <u>786 239 9269</u>	Duties:		
Date from:	Date to:	Salary:	Name of Supervisor:
Reason for leaving:			
Employer:		Job title:	
Address:			
Phone:	Duties:		
Date from:	Date to:	Salary:	Name of Supervisor:
Reason for leaving:			
Employer:		Job title:	
Address:			
Phone:	Duties:		
Date from:	Date to:	Salary:	Name of Supervisor:

Reason for leaving:				
Employer:			Job title:	
Address:				
Phone:		Duties:		
Date from:	Date to:	Salary:	Name of Supervisor:	
Reason for leaving:				
Employer:			Job title:	
Address:				
Phone:		Duties:		
Date from:	Date to:	Salary:	Name of Supervisor:	
Reason for leaving:				

If additional space is required, please utilize the back of the application form to list additional past employers.

Section 5: Professional License(s), Registration(s), and/or Certification(s)

Type	License/Certification #	Date Issued	Expiration/ Renewal Date	State Issued

ADDITIONAL INFORMATION:

Are you eligible to work in the United States? ☐ Yes ☐ No

If No, why not? _____

Are you willing to work any shift, including nights and weekends? ☐ Yes ☐ No

Are you willing to accept a live-in assignment? ☐ Yes ☐ No

How soon following notification can you start? _____

Please indicate days and hours available to work. If you are unavailable on certain days/times, please indicate below as well.

No Preference ☒

Monday _____

Tuesday _____

Wednesday _____

Thursday _____

Friday _____

Saturday _____

Sunday _____

Have you ever been convicted of a crime? ☐ Yes ☒ No

If yes, explain number of conviction(s), nature of offense(s) leading to conviction(s), how recently such offense(s) was/were committed, sentence(s) imposed, and type of rehabilitation: _____

Have you had a break in providing services under your license or certification for greater than 90 days? ☒ Yes ☐ No ☐ N/A

Have you maintained continuous U.S. residency for at least five years? ☒ Yes ☐ No

Do you have a valid driver's license? ☒ Yes ☐ No ☐ N/A

Languages Spoken: SOLO ESPAÑOL

Languages Read/Written: _____

Additional information/skills/knowledge/license(s) applicable to position you are applying for: _____

Statement Regarding Application: The information contained on this application is complete and accurate. I hereby authorize verification of any and all information contained in this application and on my resume, if provided. I certify that such statements are true, and understand that misrepresentation or omission of facts called for in this form, or on any resume provided by me, is cause for termination of employment or contract without notice.

Signature [Signature]

Date 5.3.21

Printed Name CRUZ VALEDES

THIS NURSE REGISTRY IS AN EQUAL OPPORTUNITY EMPLOYER. NO PERSON SHALL BE DENIED EMPLOYMENT ON THE BASIS OF RACE, AGE, ETHNICITY, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, RELIGION, CREED, VETERAN STATUS, MARITAL STATUS, DISABILITY OR ANY OTHER LEGALLY PROTECTED STATUS. Employment or contract is contingent upon furnishing evidence of identity, employment eligibility, and qualifications.

ACKNOWLEDGMENT OF NURSE REGISTRY POLICY & PROCEDURE

CONFIDENTIALITY STATEMENT

Initials: CV

I understand that the nurse registry abides by all standards set out by state and federal privacy laws (i.e. HIPAA). I have been instructed on maintaining the confidentiality of medical records, the privacy of client's protected health information (PHI), as well as any other proprietary information regarding the nurse registry. I am aware of and understand the nurse registry's policies relating to use, collection, disclosure, storage, and destruction of client's PHI. I understand that medical information regarding the client may only be discussed with authorized individuals. I hereby pledge that I will not access or use client's PHI except as required in the course of my duties and in accordance with applicable legislation and the nurse registry's policies. I will take the appropriate measures to keep confidential all PHI and proprietary information regarding the nurse registry both during my employment and after my employment or association ends with the nurse registry. Nurse registry records, including personnel files and manuals, are deemed privileged and confidential and shall be stored and maintained in such a manner as to maintain their confidentiality. I acknowledge that any unauthorized use or disclosure of a client's health information or breach of confidentiality with the nurse registry will result in disciplinary action up to and including termination of employment or my contract.

TAX EXEMPT STATUS

Initials: CV

I hereby acknowledge that I am an Independent Contractor working for the registry. Therefore, I am responsible for applicable state and federal taxes, such as Social Security. I also acknowledge that I will receive an IRS Form 1099 for each year that I am a subcontractor of the registry. This form will also be sent to the Internal Revenue Service (IRS). As an independent contractor, I further acknowledge that I am not eligible to receive any benefits such as vacations, health insurance, disability, or unemployment and will not be covered by Worker's Compensation or other insurance policies of the registry. I agree to maintain insurance coverage and policies applicable to my profession, if indicated.

PERFORMANCE REVIEW

Initials: CV

I have been informed that my work performance will be evaluated on an ongoing basis and that I will receive a written evaluation of my work performance by each facility to which I am referred for an assignment on an annual basis. I understand that I will also be assessed by the registry for competency as it relates to the performance of my job duties.

CODE OF CONDUCT

Initials: CV

It is the objective of the nurse registry to provide services in accordance with all applicable laws, regulations, and statutes. The nurse registry believes that its independent contractors share this objective and wish to perform their jobs in a competent, legal and ethical manner and thus, have established a Code of Conduct as a demonstration of that commitment. I hereby certify that I have received, read and agree to abide by this Code of Conduct. Therefore, I agree to:

- Always perform my duties and responsibilities to the best of my ability.
- Treat all clients with care, courtesy and respect and maintain client confidentiality at all times.
- Protect all client rights and report any failure to observe client rights by any person promptly.
- Always speak truthfully to all persons with whom I have contact in the course of my duties, including clients, family members, other independent contractors and government officials.
- Obey all laws which may apply to the performance of my duties.
- Make sure all documents or records which I prepare contain only accurate and truthful information.
- Observe all other standards of conduct which apply to my position.
- Report any activities that may violate this Code of Conduct to the nurse registry's owner.

DRUG AND ALCOHOL SCREENINGInitials: CRV

I understand that the nurse registry is a drug free workplace. I understand that urine and/or blood testing for alcohol and/or drug use may be requested during the course of my contractual relationship with the registry. Such testing may be randomly requested or requested due to the registry's suspicion that I am under the influence of alcohol and/or drugs that have the potential to result in an on-the-job injury or negatively impact the quality of my work and/or the safety and quality of care I provide to nurse registry clients or the facilities with which I work. I authorize that such testing may be requested of me at the discretion of nurse registry management. I accept this as a condition of my contract. I agree to allow such testing to be completed at a time and place to be chosen by registry management. I further authorize the results of such testing to be released to the registry and any facility or business to which I am referred for assignment by the registry.

APPLICATION FOR CONTRACT REVIEW:Initials: CRV

I certify that the information I have provided during the course of applying for this position and interviewing with the nurse registry is true and correct, including but not limited to the application, my resume, and documentation for my registration folder/personnel file. I authorize the exchange of information required for the nurse registry to complete a thorough investigation of my work history and qualifications. I hereby release from liability all persons who provide information to the nurse registry during the course of any such investigation. I understand that any falsification of information on my behalf may subject me to immediate termination of my contract with the registry.

Should I be offered a contractor position with the nurse registry, I have read and agree to the terms specified in the job description provided. I understand that I may be asked to perform additional responsibilities as applicable to my position with the nurse registry and per the request of management. I agree that, as a requirement of my employment or contract, that I will provide the nurse registry with a 14 day written advance notice of intent to terminate my contract. I agree to comply with OSHA standards under the Occupational Safety and Health Act of 1970 and have been informed of my right to file a complaint with the nearest OSHA office.

ACCEPTANCE OF CONTRACTInitials: CRV

I have been informed that the nurse registry is an equal employment opportunity employer that adheres to a policy of making employment and contractual relationship decisions without regard to race, color, sex, religion, national origin, handicap, marital status, or any other legally protected status. The nurse registry will comply, at all times, with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and all requirements imposed pursuant thereto, to the end that no person shall be discriminated against. My opportunity to contract with the nurse registry depends solely upon my qualifications and ability to perform the assigned job duties. The nurse registry's non-discrimination policy applies to clients, healthcare providers, and all personnel and independent contractors.

I understand the nurse registry operates under the principles of affording equal opportunity for qualified handicapped individuals, qualified veterans of the Vietnam era, and qualified disabled veterans. All applicants who believe themselves to be members of one or more of these groups, and who wish to identify themselves as such for the purpose of affirmative action consideration are invited to do so. Submission of this information is voluntary and refusal to provide it will not subject you to discharge or disciplinary treatment. Information obtained concerning individuals shall be kept confidential, except that (1) supervisors and managers may be informed regarding disabled veterans and handicapped individuals, (2) first aid and safety personnel may be informed as necessary, when and to the extent appropriate, if the condition might require emergency treatment, and (3) government officials investigating compliance will be informed.

I wish to volunteer the following information. I qualify under the following (check one):

- ☐ I do not qualify
☐ Handicapped

- ☐ Vietnam Era Veteran
☒ Disabled Veteran

RECEIPT OF INFORMATION:Initials: CRV

I attest that I have been provided with information regarding the operation of this nurse registry applicable to my contractual obligation. This information included a review of daily business operations, policy and procedure, client services, documentation requirements, contractual obligations, and the mission, vision, and values of the nurse registry. I have read and understand the policies and procedures of the nurse registry and have had the opportunity to have all of my concerns and/or questions resolved to my complete satisfaction. I understand that nurse registry policies and procedures, including personnel policies, may be modified and that they are not intended to be a guarantee of my continued contractual relationship with the nurse registry. I will abide by all policies at all times and will not amend or compromise these policies under any circumstances. I understand that failure to comply with nurse registry policy is grounds for termination of my contract with the nurse registry.

TRANSPORTATION RESPONSIBILITY:Initials: CRV

I attest that I have reliable transportation to be used for travel to and from client assignments. I further understand that I am responsible for maintaining and submitting proof of automobile insurance that minimally meets state requirements for insurance, if I intend to utilize my own vehicle as means for transportation.

RECEIPT OF PERSONAL PROTECTIVE EQUIPMENT:Initials: CRV

I understand the hazards of my position with the nurse registry. I attest that I have been properly instructed in the use of personal protective equipment (PPE) and that the nurse registry has supplied me with appropriate PPE, as applicable to my position with the nurse registry. I agree that, as a condition of my contract, I am required to follow the established protocols for the use of PPE while providing client care and services.

STATEMENT OF COMMITMENT:Initials: CRV

In compliance with the nurse registry's policies and procedures, I agree to abide by the following guidelines:

- I agree to wear my identification during assignment.
- I will carry my professional license or certification with me at all times during working hours at a health care facility and agree to produce such a record for review by the health care facility, upon request.
- I will always maintain professionalism in the home to which I am referred or the facility or business to which I am referred.
- I will contact the nurse registry regarding any areas of discrepancy between the assignment and my ability to carry out that assignment (whether it is in a private home or facility/agency). I will also contact the nurse registry if I identify any discrepancy between the assignment and the care needs of the client.
- I will not accept any money or gifts from the client/caregiver. I will receive payment for services rendered directly from the nurse registry and not from the clients to whom I provide services.
- I will notify the nurse registry if I am unable to arrive for my assignment at the scheduled time or if I am unable to meet my assignment commitment. I understand that the nurse registry will contact the client/caregiver or facility to make alternative arrangements. I also understand that not notifying the nurse registry is grounds for termination of my contract.
- I will not make or accept personal telephone calls at the client's home.
- I will not smoke at the client's home.
- I will not send anyone else to the client's home to complete my assignment and I will not take anyone with me to the client's home to assist me in completing my assignment. I acknowledge that violation of this policy is grounds for termination of my contract.
- I will accept assignments on a case-by-case basis and I may accept or reject any assignment offered by

the nurse registry. Once I accept an assignment, I am obligated to fulfill that assignment.

- I will provide care in a manner that does not discriminate against clients on the basis of race, color, national origin, handicap, age, or any other legally protected status.
- I will complete and submit all documentation per nurse registry policy. I understand the nurse registry may withhold payment if documentation pertaining to the services I have provided is not accurate and completed in a timely manner.
- I understand that habitual tardiness, excessive cancellations, and failure to report to an assignment are cause for the termination of my contract with the nurse registry.

VISIT NOTES POLICY:

Initials: CRV

I understand that it is nurse registry policy for visit notes and all other documentation for a client's file to be written and submitted to the Administrator weekly. I will ensure complete, concise documentation as required per nurse registry policy and procedure and submit my visit notes on a weekly basis and on time. I understand that failure to do so will result in a delay in receiving my paycheck and may result in other disciplinary action, up to and including termination of my contract.

COVENANT NOT TO COMPETE:

Initials: CRV

During the term of my contract with the nurse registry and for a period of at least one year thereafter, I will not contact a nurse registry client, directly or indirectly, either for his/her own account or otherwise; to be employed by, participate in, consult with, perform services for, or otherwise be connected with any business the same as or similar to the business conducted by the nurse registry. I agree to notify the nurse registry in the event that a client attempts to arrange for services directly with me. I agree not to accept assignment from any client of the nurse registry for a period of at least one year following my separation from the nurse registry and/or termination of my contract. In the event of a breach, a threatened breach, and failure to comply with this section, the nurse registry shall be entitled to obtain an injunction restraining the commitments or continuance of the breach, as well as any other legal or equitable remedies as permitted by law.

SCHEDULED VISITS:

Initials: CRV

I have been informed that the continuity of client care is of utmost importance and services must be provided in accordance with a client's plan of care. I acknowledge that I will provide services to clients exactly as they are assigned. I will not let any assignment from this nurse registry overlap with those assigned to me by other facilities or agencies and I will fulfill my responsibilities as directed. I understand that I work for the nurse registry as an independent contractor and that the clients I provide services to belong to the nurse registry or facility to which I am assigned. I acknowledge that I am strictly prohibited from transferring or attempting to transfer any client case to another nurse registry, agency, or facility.

CONFLICT OF INTEREST:

Initials: CRV

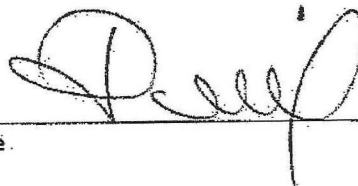
Elite Senior Management policy prohibits its contractors from engaging in any activity, practice or act which conflicts with or appears to conflict with the interest of the registry. It is impossible to describe all the situations, which may cause or give the appearance of a conflict of interest. Therefore, the prohibitions included here in this policy are not exhaustive of all potential conflicts of interest. It is the obligation of contractors to report any potential conflicts to supervisory staff. Contractors are not to engage in directly or indirectly in any conduct in which is disloyal, disruptive, competitive, or damaging to the registry. Contractors are prohibited from accepting any employment with any organization that does business with the Registry.

I have read and understand the above information concerning the policies and procedures of the nurse registry. I agree to abide by the policies and procedures of the nurse registry, including personnel policies, and have been informed that failure to do so may result in disciplinary action up to and including termination of my contract.

ORVZ Daicelys Valdivia

Name (Please print)

Signature



5.3.21

Date

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INDEPENDENT CONTRACTOR AGREEMENT

This independent contractor agreement (hereinafter referred to as "the Agreement") is made and entered into this day, 5-3-21, by and between ALL VIP CARE, INC. a Florida corporation and licensed nurse registry (hereinafter referred to as "Company"), and CRUZ, DARCY VALERIE SSN [REDACTED] (hereinafter referred to as "Contractor").

WHEREAS, "Nurse registry," per 400.462(21), F.S., means any person that procures, offers, promises, or attempts to secure healthcare-related contracts for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, companions, or homemakers, who are compensated by fees as independent contractors, including, but not limited to, contracts for the provision of services to clients and contracts to provide private duty or staffing services to health care facilities licensed under chapter 395 or this chapter or other business entities.

WHEREAS, "Staffing services," per 400.462 (29) F.S., means services provided to a health care facility, school, or other business entity on a temporary or school-year basis pursuant to a written contract by licensed health care personnel and by certified nursing assistants and home health aides who are employed by, or work under the auspices of, a licensed home health agency or who are registered with a licensed nurse registry. WHEREAS, Company desires to contract with said Contractor to perform services in accordance with the terms of this Agreement.

WHEREAS, Company hereby contracts with Contractor to fulfill the following indicated position as an independent contractor of the nurse registry:

<input type="checkbox"/> Registered Nurse	<input type="checkbox"/> Certified Nursing Assistant
<input type="checkbox"/> Licensed Practical Nurse	<input type="checkbox"/> Homemaker/Companion
<input checked="" type="checkbox"/> Home Health Aide	

NOW, THEREFORE, in consideration of these premises, mutual promises, covenants terms and conditions contained herein, and other good and valuable considerations, the parties acknowledge the receipt and sufficiency of which, the parties agree as follows:

CONTRACTOR APPOINTMENT

Said duties will be carried out in accordance with all applicable law and regulation as well as applicable nurse registry policy and procedure. Job responsibilities are specified in Contractor's job description for the position indicated above. Contractor must continually meet all personnel qualifications, as set forth in said job description as well as applicable state and federal law and regulation. Contractor does hereby attest that he/she is licensed or certified in the State of Florida (if required for the position) and that he/she shall notify Company of any change, modification, disciplinary action or any event that may otherwise affect the validity, active status, or impair in any manner the underlying license or certification of said Contractor. Contractor hereby accepts such appointment and is willing to perform these services in accordance with the terms hereinafter set forth. Contractor shall provide services to clients in private homes or healthcare facilities, agencies or other organizations to which the registry refers the services of Contractor at such times and at such places specified by Company in its relationships with those individuals or organizations.

SERVICES OVERSIGHT—CONTRACTOR AND COMPANY RESPONSIBILITIES

Company will retain and maintain all clinical records of clients to whom services are provided in their private homes. Services to be provided through a contractual relationship with another business entity or healthcare facility will be coordinated between Company and said entity in accordance with registry policy and applicable law and regulation governing the provision of these services. Services will be properly coordinated by Contractor and/or the supervisor or designee. Contractor's services will be provided in accordance with the client's Plan of Care (hereinafter referred to as 'POC') and Company is responsible for the scheduling of home visits and periodic client evaluation according to the client's POC, when applicable. Referrals will be given to Contractor in accordance with the duties Contractor is lawfully allowed and competent to perform and for which the nurse registry is licensed. Contractor is responsible for participating in a client's POC within the scope of his/her practice as defined by law and regulation and in accordance with nurse registry policy and procedure as well as the policies of the entity to which Contractor may be referred. Company will use Contractor when Company deems it necessary and in its sole discretion determines that the skills and qualifications of Contractor are appropriate to meet client care needs and will provide those services according to the schedule set forth and authorized by Company. Both Company and Contractor agree that the Company (in conjunction with healthcare entities to which the Contractor is referred) will also coordinate client assessments, reassessments, formulation and revision of plans and discharge planning, the schedule for home visits, supervision, and case management. Contractor shall participate with Company in these activities as qualified and appropriate to his/her position and professional privileges.

CONTRACTOR'S REPRESENTATION

Contractor represents to Company that Contractor is, and will continue to be during the term of this Agreement, duly licensed as necessary in the State of Florida to provide the services hereunder, and the execution of this Agreement by the Contractor does not conflict with any other agreement to which the Contractor is a party. Contractor also represents that Contractor will perform hereunder without negligence and in compliance with all applicable laws including, without limitation, professional regulations. Contractor will dress appropriately while providing services and comply with registry policies.

TAX LIABILITY

Company shall not be liable for withholding any tax, social security taxes, worker's compensation or other expense or liability attributable to an employer/independent contractor relationship. Contractor agrees to accept responsibility for the payment of self-employment taxes, as applicable and in accordance with state and federal law. Contractor accepts responsibility for applicable state and federal taxes, such as Social Security. Contractor also acknowledges that he/she will receive an IRS Form 1099 for each year as a subcontractor of the registry. This form will be sent to the Internal Revenue Service (IRS) as well.

CIVIL RIGHTS REQUIREMENTS

Pursuant to Chapter 760 F.S., Company is committed to compliance with civil rights requirements. As applicable to operation of the nurse registry, Company complies with the provisions of Florida statutes concerning civil rights and anti-discrimination laws.

Company is an equal employment opportunity employer that adheres to a policy of making employment and contract decisions without regard to race, color, sex, religion, national origin, handicap, marital status, or any other legally protected status. The nurse registry will comply, at all times, with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and all requirements imposed pursuant thereto, to the end that no person shall be discriminated against. Contractor's opportunity to contract with Company depends solely upon his/her qualifications and ability to perform the assigned job duties. Company's non-discrimination policy applies to clients, healthcare providers, and all personnel and independent contractors.

RELATIONSHIP BETWEEN PARTIES

Contractor is retained and contracting with Company only for the purposes and to the extent set forth in this Agreement and corresponding job description, and his/her relation to the Company and its subsidiary companies shall, during the period or periods of providing services hereunder, be that of an independent contractor. Contractor shall not be considered as being entitled to participate in any plans, arrangements, or distribution by the Company or its subsidiary companies pertaining to or in connection with any pension, stock, bonus, profit-sharing or similar benefits for their regular independent contractors.

These parties acknowledge that neither Contractor nor Company, or any of their affiliates (including, without limitation, principals, employees, agents, and executive officers, if any) shall be deemed hereunder joint ventures, principals, partners, employees or agents of other party hereto, provided all of the duties, obligations and responsibilities of Contractor, and all activities with respect to the satisfaction of the foregoing, shall be conducted by Contractor of the foregoing, shall be conducted by Contractor independent of Company as an independent contractor. Contractor shall indemnify and hold the Company harmless from any and all claims of every kind and description whatsoever asserted against Company arising out of the performance by Contractor in his/her duties, obligations and responsibilities hereunder. Notwithstanding anything contained herein, Contractor shall not be permitted to delegate any of Contractor's duties hereunder to any employee, agent or other person without the written consent of Company. Contractor shall have general control of Contractor's activities with the right to exercise independent good judgment as to the manner (but only as permitted hereunder) of servicing clients, customers and otherwise carrying out the provisions of this Agreement. In acting as an independent contractor hereunder, Contractor shall be required to make arrangements for insurance, licenses and permits and for the payment of income taxes and social security taxes with regard to any payments received by Contractor and Contractor's services.

Contractor agrees and acknowledges that it will promptly notify Company, in writing, of any inquiries, investigations, complaints, and any disciplinary actions taken by any entity based on Contractor's actions and inactions. Contractor hereby authorizes any entity regulating or supervising Contractor to release to Company all information relating to such complaint or disciplinary action. Contractor also agrees to provide Company access, upon request, to Contractor's books, documents and records to verify the costs and reasonableness of the services furnished.

PAYMENT FOR SERVICES

Both Company and Contractor agree that the Contractor shall be paid according to the attached, Appendix A. Contractor will submit to Company accurate and complete records of services provided and will be paid every other Friday only if services were provided by Contractor, conditions for payment were met, and payment is due. Documentation pertaining to the services provided must be complete per nurse registry policy, accurately reflect services provided, and be turned into the nurse registry in a timely manner. Contractor acknowledges that payment for services may be withheld if all conditions regarding services and documentation of service provision have not been met in accordance with registry policy. Both Company and Contractor agree not to charge any client for covered services and items and to return money incorrectly collected.

Contractor shall not be entitled to any other compensation, and Contractor shall not be entitled to receive any reimbursements for any costs or expenses incurred by Contractor. In connection with services provided, Contractor shall prepare and provide Company, as may be reasonably requested, all reasonable documentation of such services in order that Company, or any other entity designated by Company, may comply with appropriate Federal and State laws with respect to the reimbursement of Company, or such other entity, of the payments by Company to Contractor as compensation.

BACKGROUND SCREENING

All Contractors referred for assignments by nurse registries shall meet state of Florida background screening requirements.

Company must either terminate the employment or contract of any of its personnel found to be in noncompliance with the minimum standards for good moral character contained in this section or place Contractor in a position for which background screening is not required unless the employee is granted an exemption from disqualification pursuant to s. 435.07. Any person who is required to undergo screening and who refuses to cooperate in such screening or refuses to submit the information necessary to complete the screening, including fingerprints when required, shall be disqualified for employment or contract in such position or, if employed, shall be dismissed.

PROFESSIONAL RESPONSIBILITY

Nothing in this Agreement shall be construed to interfere with or otherwise affect the rendering of services by Contractor in accordance with his/her independent and professional judgment. This Agreement shall be subject to the rules and regulations of any and all professional organizations or associations to which Contractor may from time to time belong and the laws and regulations governing said practice in this State.

Contractor shall be responsible for obtaining and maintaining appropriate levels of professional liability insurance if applicable to cover Contractor's performance hereunder. Contractor is required to provide Company a valid Certificate of Insurance reflecting professional liability insurance coverage immediately upon the request of Company. In addition, Contractor is required to maintain automobile liability and personal injury protection insurance and shall provide proof of such insurance to Company in the event that a personal vehicle is utilized for transportation and whenever requested by Company. Contractor must immediately notify Company if Contractor's professional liability, automobile or PIP insurance is terminated, expires or is reduced, whether the insurance company or Contractor initiated such action.

Both parties agree that Contractor shall submit clinical notes and progress notes to the Administrator of the registry or designee weekly (for services provided in the week prior), and shall conform to the prescribed scheduling of visits and periodic client evaluation. All clients' health information must be maintained according to federal privacy law ('HIPAA') requirements.

Both parties agree that the Company shall request the evaluation of the Contractor's performance on an annual basis. It is an expectation of the nurse registry that Contractor will be competent to perform his/her responsibilities in a safe manner and that skills and education acquired elsewhere transfer competently into a client care setting.

COVENANT NOT TO COMPETE

During the term of this Agreement and for a period of at least one year thereafter, Contractor shall not contact a Company client, directly or indirectly, either for his/her own account or otherwise; to be employed by, participate in, consult with, perform services for, or otherwise be connected with any business the same as or similar to the business conducted by Company. Contractor agrees to notify Company in the event that a nurse registry client attempts to arrange for services directly with Contractor. Contractor agrees not to accept assignment from any client of the Company for a period of at least one year following Contractor's separation from Company and/or termination of this Agreement. In the event any of the provisions of this section are determined to be invalid by reason of their scope or duration, this section shall be deemed modified to the extent required to cure the invalidity.

In the event of a breach, a threatened breach, and failure to comply with this section, Company shall be entitled to obtain an injunction restraining the commitments or continuance of the breach, as well as any other legal or equitable remedies as permitted by law.

All statistical, financial and personal data relating to the client which is confidential and which is clearly designated as such will be kept in the strictest of confidence by Contractor and Company. Accordingly, Contractor agrees not to compete with Company for those clients and legal entities Contractor has serviced under this Agreement. Contractor acknowledges and agrees that information concerning the clients, suppliers, office files, procedures and policies and other aspects of the business of the Company is confidential, and in connection therewith, Contractor agrees not to use or disclose any such information at anytime except as permitted under or as otherwise permitted in writing by the Company. Contractor agrees to immediately surrender all such information in the possession or control of Contractor, including all reproductions thereof, upon any termination of this Agreement. Contractor hereby agrees and acknowledges that: (i) This section and each of its provisions are reasonable as they relate to restrictions and limitations upon Contractor; (ii) Neither this Agreement nor this section will operate as a bar to Contractor's sole means of support; (iii) This section may be enforced by Company through the use of an injunction or any other equitable remedy given in the amount of the damages to Company for a breach of this section, in addition to any other remedies Company may have hereunder or under law; (iv) Company shall be entitled to reimbursement from Contractor's legal fees, costs and expenses incurred by Company through all appeals, if any, to enforce this section; (v) This section shall survive any termination of this Agreement; (vi) If any provisions of this section is deemed unenforceable by a court of competent jurisdiction for whatever reason, such term shall be substituted with such term of immediately lesser duration or effect which shall be deemed enforceable.

SUSPENSION AND TERMINATION

This Agreement shall commence as of the date first written below and shall continue for successive one (1) year terms, unless sooner terminated as follows: (i) This Agreement can be terminated by either party hereto upon thirty (30) days written notice prior to the commencement of the successive one (1) year period; (ii) This Agreement may be terminated by Company at any time without notice in the event Contractor breaches any covenant or representation under this Agreement; (iv) This Agreement may be terminated at any time upon mutual written consent of the parties.

THIRD PARTY BENEFICIARIES

This Agreement has been entered into solely for the benefit of the parties hereto and in no event whatsoever shall any other party or parties be deemed a third party beneficiary or beneficiaries of the Agreement.

MISCELLANEOUS

Florida law shall govern this Agreement, with the sole venue for any action, suit or proceeding arising hereunder Palm Beach County, Florida. No amendment to or assignment of this Agreement will be valid unless in writing and signed by the parties signing below. This Agreement may not be waived unless such waiver in writing and signed by the waiving party. Each party acknowledges having been represented by independent legal counsel in connection with this Agreement or having waived such right. This Agreement sets forth the entire Agreement of the parties as to the subject hereto and supersedes any prior Agreement. Each party will execute such reasonable documents and take such reasonable action as may be reasonably requested to give effect to this Agreement. All costs and expenses of the parties in connection with this Agreement shall be borne by each such party incurring such costs and expenses. This Agreement may be executed in any number of counterparts.

ENTIRE AGREEMENT

The Agreement (including any attachments and amendments hereto) constitute the entire understanding between the parties hereto and cancels and supersedes all prior negotiations, understandings and agreements, either written or oral, with respect to the subject matter hereof.

Agreement executed as of this day 5.3.21

ALL VIP CARE, INC.

Yanariz Perez

Signature of Authorized Company Representative

Name: Yanariz Perez

Title: Front Desk

Date: 5/4/21

Independent Contractor:

CRUZ DAICELYS VALDIVIAZO

Signature of Contractor

Name: CRUZ DAICELYS VALDIVIAZO

Title: HHHA

Date: 5.3.21

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All VIP 26 A 000015

APPENDIX A: INDEPENDENT CONTRACTOR PAYMENT SCHEDULE

PRIVATE CLIENT HOME—PER VISIT RATE:

	Sign Up/Initial Evaluation Visit	Regular Client Visit	Recertification/ Re-assessment or Discharge
RN			
LPN			

REFERRAL TO FACILITY, AGENCY, OR HEALTHCARE ENTITY—PER VISIT RATE:

	Sign Up/Initial Evaluation Visit	Regular Client Visit	Recertification/ Re-assessment or Discharge
RN			
LPN			

CLIENT VISITS TO PROVIDE SERVICES—PER HOUR RATE:

	Private Client Home	Referral to Facility, Agency, or Healthcare Entity
HHA/CNA		
Homemaker/Companion		

ORZ D2:0036 VADH 010030
Contractor Name (Print)

5.3.21
Date

[Signature]
Contractor Signature

5.3.21
Date

Yanavizh Perez
Administrator/Designee Signature

5/4/21
Date



AFFIDAVIT OF COMPLIANCE WITH Background Screening Requirements

Authority: This form may be used by all employees to comply with:

- the attestation requirements of section 435.05(2), Florida Statutes, which state that every employee required to undergo Level 2 background screening must attest, subject to penalty of perjury, to meeting the requirements for qualifying for employment pursuant to this chapter and agreeing to inform the employer immediately if arrested for any of the disqualifying offenses while employed by the employer, AND
- the proof of screening within the previous 5 years in section 408.809(2), Florida Statutes which requires proof of compliance with level 2 screening standards submitted within the previous 5 years to meet any provider or professional licensure requirements of the Agency, the Department of Health, the Agency for Persons with Disabilities, the Department of Children and Family Services, or the Department of Financial Services for an applicant for a certificate of authority or provisional certificate of authority to operate a continuing care retirement community under chapter 651 if the person has not been unemployed for more than 90 days.

This form must be maintained in the employee's personnel file. If this form is used as proof of screening for an administrator or chief financial officer to satisfy the requirements of an application for a health care provider license, please attach a copy of the screening results and submit with the licensure application.

Employee/Contractor Name: <u>CRUZ Dairelys Valdivieso</u>
Health Care Provider/ Employer Name:
Address of Health Care Provider:

I hereby attest to meeting the requirements for employment and that I have not been arrested for or been found guilty of, regardless of adjudication, or entered a plea of nolo contendere, or guilty to any offense, or have an arrest awaiting a final disposition prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

Criminal offenses found in section 435.04, F.S.

- (a) Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- (b) Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- (c) Section 415.111, relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.
- (d) Section 782.04, relating to murder.
- (e) Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.

- (f) Section 782.071, relating to vehicular homicide.
- (g) Section 782.09, relating to killing of an unborn quick child by injury to the mother.
- (h) Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.
- (i) Section 784.011, relating to assault, if the victim of the offense was a minor.
- (j) Section 784.03, relating to battery, if the victim of the offense was a minor.
- (k) Section 787.01, relating to kidnapping.
- (l) Section 787.02, relating to false imprisonment.
- (m) Section 787.025, relating to luring or enticing a child.

(n) Section 787.04(2), relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.

(o) Section 787.04(3), relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.

(p) Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.

(q) Section 790.115(2)(b), relating to possessing an electric weapon or device, destructive device, or other weapon on school property.

(r) Section 794.011, relating to sexual battery.

(s) Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

(t) Section 794.05, relating to unlawful sexual activity with certain minors.

(u) Chapter 796, relating to prostitution.

(v) Section 798.02, relating to lewd and lascivious behavior.

(w) Chapter 800, relating to lewdness and indecent exposure.

(x) Section 806.01, relating to arson.

(y) Section 810.02, relating to burglary.

(z) Section 810.14, relating to voyeurism, if the offense is a felony.

(aa) Section 810.145, relating to video voyeurism, if the offense is a felony.

(bb) Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.

(cc) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.

(dd) Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.

(ee) Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.

(ff) Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.

(gg) Section 826.04, relating to incest.

(hh) Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

(ii) Section 827.04, relating to contributing to the delinquency or dependency of a child.

(jj) Former s. 827.05, relating to negligent treatment of children.

(kk) Section 827.071, relating to sexual performance by a child.

(ll) Section 843.01, relating to resisting arrest with violence.

(mm) Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer means of protection or communication.

(nn) Section 843.12, relating to aiding in an escape. (oo)(ll).

(oo) Section 843.13, relating to aiding in the escape of juvenile inmates in correctional institutions.

(pp) Chapter 847, relating to obscene literature.

(qq) Section 874.05(1), relating to encouraging or recruiting another to join a criminal gang.

(rr) Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

(ss) Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

(tt) Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.

(uu) Section 944.40, relating to escape.

(vv) Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

(ww) Section 944.47, relating to introduction of contraband into a correctional facility.

(xx) Section 985.701, relating to sexual misconduct in juvenile justice programs.

(yy) Section 985.711, relating to contraband introduced into detention facilities.

(3) The security background investigations under this section must ensure that no person subject to this section has been found guilty of, regardless of adjudication, or entered a plea of *nolo contendere* or guilty to, any offense that constitutes domestic violence as defined in s. 741.28, whether such act was committed in this state or in another jurisdiction.

Criminal offenses found in section 408.809(4), F.S.

- (a) Any authorizing statutes, if the offense was a felony.
- (b) This chapter, if the offense was a felony.
- (c) Section 409.920, relating to Medicaid provider fraud.
- (d) Section 409.9201, relating to Medicaid fraud.
- (e) Section 741.28, relating to domestic violence.
- (f) Section 817.034, relating to fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems.
- (g) Section 817.234, relating to false and fraudulent insurance claims.
- (h) Section 817.505, relating to patient brokering.
- (i) Section 817.668, relating to criminal use of personal identification information.
- (j) Section 817.60, relating to obtaining a credit card through fraudulent means.
- (k) Section 817.51, relating to fraudulent use of credit cards, if the offense was a felony.
- (l) Section 831.01, relating to forgery.
- (m) Section 831.02, relating to uttering forged instruments.
- (n) Section 831.07, relating to forging bank bills, checks, drafts, or promissory notes.
- (o) Section 831.09, relating to uttering forged bank bills, checks, drafts, or promissory notes.
- (p) Section 831.30, relating to fraud in obtaining medicinal drugs.
- (q) Section 831.31, relating to the sale, manufacture, delivery, or possession with the intent to sell, manufacture, or deliver any counterfeit controlled substance, if the offense was a felony.

If you are also using this form to provide evidence of prior Level 2 screening (fingerprinting) in the last 5 years and have not been unemployed for more than 90 days, please provide the following information. A copy of the prior screening results must be attached.

Purpose of Prior Screening: _____

Screened conducted by: _____

Date of Prior Screening: _____

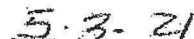
- ☐ Agency for Health Care Administration
- ☐ Department of Health
- ☐ Agency for Persons with Disabilities
- ☐ Department of Children and Family Services
- ☐ Department of Financial Services

Affidavit

Under penalty of perjury, I, _____, hereby swear or affirm that I meet the requirements for qualifying for employment in regards to the background screening standards set forth in Chapter 435 and section 408.809, F.S. In addition, I agree to immediately inform my employer if arrested or convicted of any of the disqualifying offenses while employed by any health care provider licensed pursuant to Chapter 408, Part II F.S.


Employee/Contractor Signature


Title


Date

Form **W-9**
(Rev. December 2014)
Department of the Treasury
Internal Revenue Service

**Request for Taxpayer
Identification Number and Certification**

Give Form to the requester. Do not send to the IRS.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
ORUZ DAI CELYS VALDIVIA

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only one of the following seven boxes:
☐ Individual/sole proprietor or single-member LLC
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶
☐ Other (see instructions) ▶
☐ C Corporation
☐ S Corporation
☐ Partnership
☐ Trust/estate
 Note: For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.

4 Exemptions (codes apply only to certain entities; not individuals; see instructions on page 3):
Exempt payee code (if any):
Exemption from FATCA reporting code (if any):
(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)
6401 PERRY ST HOLLYWOOD

6 City, state, and ZIP code
HOLLYWOOD FL 33024

7 List account number(s) here (optional)

Print or type
See Specific Instructions on page 2.

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note: If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number
[REDACTED]

Employer identification number
[REDACTED]

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding; or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends; or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign this certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here
Signature of U.S. person ▶ **[Signature]**

Date ▶ **5.3.21**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.
Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/ty9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

• Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)

• Form 1099-C (canceled debt)

• Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing this filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
2. Certify that you are not subject to backup withholding; or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income; and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

HOME HEALTH AIDE/CERTIFIED NURSING ASSISTANT JOB DESCRIPTION

REPORTS TO Administrator

QUALIFICATIONS

- Licensed by the Florida Department of Health as a Certified Nursing Assistant, or for home health aides, documentation of successful completion of at least forty hours of training (content must be consistent with Florida regulations specific to home health aide training).
- Individuals who earn their CNA certificate in another state must contact the Florida Certified Nursing Assistant office at the Department of Health to inquire about taking the written examination prior to working as a CNA in Florida.
- Registered nurses and licensed practical nurses who can show proof they are licensed in another state or in Florida can work as a home health aide in Florida.
- Home health aides who complete their training in another state must provide a copy of the course work and a copy of their training documentation to the nurse registry. If the course work is equivalent to Florida's requirements, the nurse registry may refer the home health aide for contract.
- Current CPR certification.
- Evidence of continuing education as required.
- One (1) year experience preferred.

PRIMARY RESPONSIBILITIES (including but not limited to the following):

- Fulfills assignments delegated by the nurse registry and provides services in accordance with a client's service provision plan.
- Meets all contractual obligations on an ongoing basis.
- Performs all personal care activities contained in a written assignment by a licensed health professional employee or contractor of the home health nurse registry and which includes assisting the client with personal hygiene, ambulation, eating, dressing, shaving, physical transfer, and other duties as assigned.
- Provides assistance with ambulation, limited to providing physical support to enable the client to move about within or outside of the client's place of residence. Physical support includes holding the client's hand, elbow, under the arm, or holding on to a support belt worn by the client to assist in providing stability or direction while the client ambulates.
- Provides assistance with bathing, limited to helping the client in and out of the bathtub or shower, adjusting water temperatures, washing and drying portions of the body which are difficult for the client to reach, and being available while the client is bathing. Can also include washing and drying the client who is bed-bound.
- Provides assistance with dressing, to include helping the client put on and remove clothing.
- Helps the client with shaving and with oral, hair, skin and nail care. (Nail trimming not allowed).
- Assists with toileting, including reminding the client about using the toilet, assisting to the bathroom, helping to undress, positioning on the commode, and helping with related personal hygiene, including assistance with changing of an adult brief. Also includes assisting with positioning the client on the bedpan and helping with related personal hygiene.
- Provides assistance with physical transfer. Providing verbal and physical cueing; physical assistance, or both while the client moves from one position to another, for example between the following: a bed, chair, wheelchair, commode, bathtub or shower, or a standing position. Transfer can also include use of a mechanical lift, if a home health aide or CNA is trained in its

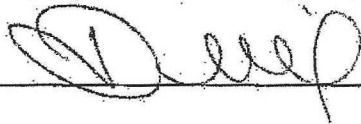
use.

- Maintains a clean, safe and healthy environment, which may include light cleaning and straightening of the bathroom, straightening the sleeping and living areas, washing the client's dishes or laundry, and such tasks to maintain cleanliness and safety for the client.
- Responsible for observing appearance and gross behavioral changes in the client and reporting these changes to the caregiver and the nurse registry or the registered nurse responsible for assessing the case when giving care in the home or to the responsible facility employee if staffing in a facility.
- Documents services provided to the client or client and for filing said documentation with the nurse registry on a regular basis.
- Performs other activities as taught and documented by a registered nurse, concerning activities for a specific client and restricted to the following:
 - Assisting with the change of a colostomy bag, reinforcement of dressing;
 - Assisting with the use of devices for aid to daily living such as a wheelchair or walker;
 - Assisting with prescribed range of motion exercises;
 - Assisting with prescribed ice cap or collar;
 - Doing simple urine tests for sugar, acetone or albumin;
 - Measuring and preparing special diets;
 - Teaching household routine and skills to well members of the family;
 - Measuring intake and output of fluids;
 - Measuring temperature, pulse, respiration or blood pressure;
 - Keeping records of personal health care activities;
 - Assisting with ADL's and IADL's;
 - Providing nutritional support.
- Provides assistance with a client's self administration of medication, including the following:
 - Taking the medication in its previously dispensed, properly labeled container, from where it is stored and bringing it to the client.
 - In the presence of the client, reading the label, opening the container, removing a prescribed amount of medication from the container, and closing the container.
 - Placing an oral dosage in the client's hand or placing the dosage in another container and helping the client by lifting the container to his or her mouth.
 - Applying topical medications.
 - Returning the medication container to proper storage.
 - Keeping a record of when a client receives assistance with self-administration of medication.
- Assistance with a client's self-administration of medication does not include the following:
 - Mixing, compounding, converting, or calculating medication doses, except for measuring a prescribed amount of liquid doses, except for measuring a prescribed amount of liquid medication or breaking a scored tablet or crushing a tablet as prescribed.
 - The preparation of syringes for injection or the administration of medications by injectable route.
 - Administration of medications through intermittent positive pressure breathing machines or a nebulizer.
 - Administration of medications by way of a tube inserted in a cavity of the body. (e) Administration of parenteral preparations.
 - Irrigations for debriding agents used in the treatment of a skin condition.
 - Rectal, urethral, or vaginal preparations.

- Medications ordered by the physician or health care professional with prescriptive authority to be given "as needed", unless the order is written with specific parameters that preclude independent judgment on the part of the unlicensed person, and at the request of a competent client.
- Medication for which the time of administration, the amount, the strength of dosage, the method of administration, or the reason for administration requires judgment or discretion on the part of the unlicensed person.
- The home health aide and CNA may also provide the following assistance with self-administered medication, as needed by the client:
 - Prepare necessary items such as juice, water, cups, or spoons to assist the client in the self-administration of medication;
 - Open and close the medication container or tear the foil of prepackaged medications;
 - Assist the resident in the self-administration process. Examples of such assistance include the steadying of the arm, hand, or other parts of the client's body so as to allow the self-administration of medication;
 - Assist the client by placing unused doses of solid medication back into the medication container.
- The home health aide or CNA may not change sterile dressings, irrigate body cavities such as giving an enema, irrigate a colostomy or wound, perform a gastric irrigation or enteral feeding, catheterize a client, administer medication, apply heat by any method, care for a tracheotomy tube, nor provide any personal health service which has not been included in the service provision plan.
- Adheres to standard precautions.
- Additional duties as assigned.
- Abides by the registry's Code of Conduct.
- Maintains client confidentiality per registry policy and federal privacy laws regarding the use and disclosure of client's protected health information.

By my signature below, I acknowledge and accept the responsibilities of this position.

Signature: _____



Date: _____

5.3.21

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WAIVER OF PROFESSIONAL LIABILITY INSURANCE

I, _____, have chosen not to carry a professional liability
(print name)
insurance policy while working as an independent contractor for the registry, I agree to hold
harmless and indemnify ALL VIP CARE, INC. from any and all
claims made against me in the course of performing the professional responsibilities assigned
to me while under contract with the organizations or clients to which I am referred to provide
services. I understand the potential consequences of not carrying a professional liability
insurance policy and agree to notify registry management if I decide to
carry a policy in the future.

Independent Contractor:


Signature of Independent Contractor

ALL VIP CARE, INC.


Signature of Company Representative

Name: CRUZ DELICIAS VALDIVIA

Title: HHA

Date: 5-3-21

Name: Yanariz Perez

Title: Front Desk

Date: 6/4/21



All VIP Care, Inc.
"Home Care Begins Here."

**INDEPENDENT CONTRACTOR
PROFESSIONAL LIABILITY POLICY**


Effective immediately, Independent Contractors on the Agency's roster must carry "Professional Liability." In addition, the Professional Liability must include All VIP Care, Inc. as an additional insured.

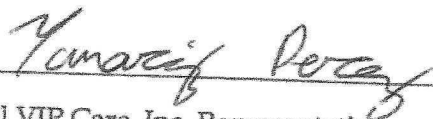
The Independent Contractor can call CM&F Group, Inc. at 212/233-8911 to inquire about obtaining a policy and request to add All VIP Care, Inc. as an "Additional Insured." The Independent Contractor has the right to choose their insurance provider.

If the Independent Contractor wants the Agency to purchase the policy, then the contractor must sign this form.

By signing below, I, ORUZ DEJACETIS VALLERIE, will carry Professional Liability which is to include All VIP Care, Inc. as an additional insured; and, I will contact the Agency when the policy has expired and/or about to renew.

Furthermore, if the Agency purchases the policy on my behalf, I understand and agree that the cost will be deducted from my first pay-check.

★ 
Independent Contractor Signature


All VIP Care, Inc. Representative

C: File

New Policy Effective March 17, 2021
5601 Corporate Way #204
W. Palm Beach, FL 33407



(561) 268 - 2531 (Office)
(561) 847 - 4612 (Fax)
www.allvipcare.com